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April 22, 1994

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MAY 16 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Attn: Ralph Haller, Chief - Private Radio Bureau
Chair, PCS Task Force

Re: General Docket No. 90-314

STATEMENT OF THE WESTERN ALLIANCE

Dear Ms. Brown:

On behalf of Rocky Mountain Telecommunications Association and the Western Rural Telephone Association (the Western Alliance), and pursuant to the Commission's April 4, 1994 News Release (Mimeo No. 42480), we hereby submit its statement responding to views expressed at the Commission's panel discussion on personal communications service (PCS) issues, held on April 11 and 12, 1994. The Western Alliance found the open forum to be beneficial, and agrees with the overall impression of the industry that PCS auctions need to be expedited. However, the Western Alliance is concerned that panic not be allowed to rule the day, when it comes to resolving the important issues which have been raised on reconsideration. In particular, the Alliance has the following observations:

1. Rural Telephone Companies Should Be Exempted From Cellular Ownership Restrictions

Certain panelists argued to the Commission that because it is important to immediately auction PCS licenses, the broadband PCS rules adopted in the Second Report and Order in General Docket No.

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90-314 should be affirmed without change.¹ However, the rural telephone industry has demonstrated the overriding importance of exempting rural telephone companies ("rural telcos") from the cellular ownership restrictions. Panelist Dan Trampush of Ernst & Young repeated this concern, in stating that "restrictions on ownership of cellular and PCS would be bad for customers in rural areas." Panel Discussion Transcript ("Tr.") at p. 44. Mr. Trampush astutely observes that the only chance for PCS to be viable in rural areas is to encourage rural telephone companies to maximize the inter-workability of PCS, cellular and telephone networks, so that economies of scope can be realized. Id.

What Mr. Trampush does not mention is the other side of the coin: In the absence of an exemption from the cellular ownership restriction, many rural telcos will be effectively precluded from participating in PCS by virtue of a minority (and often passive) interest in a given cellular operation. These rural telcos can control neither the coverage nor the services offered by the cellular system in which they have a minor interest, and many of these carriers find that their certificated telephone service areas remain unserved by the cellular system.

The upshot of the cellular restriction is twofold: (1) In many parts of the country (especially the western states), PCS licensees will be able to achieve their 90 percent coverage requirement by serving only the metropolitan areas within a BTA or MTA, leaving rural communities unserved for the foreseeable future;² and (2) in those areas where PCS licensees see fit to extend service to rural communities, they are likely to target their services to the larger business customers in these areas, leaving rural telcos with only the less economical residential service. With their hands tied behind their back, these rural telcos may be forced out of business, or at least forced to sharply increase prices and curtail services. This result flies in the face of both the universal service goals of Congress and the FCC, and the Congressional mandate to encourage rural telco participation in PCS, as a means of bringing enhanced services to rural communities.

Accordingly, the FCC should not unnecessarily delay PCS auctions, but should not let haste bring about an absurd result.

¹ See, e.g., testimony of Tom Stroup of the Personal Communications Industry Association, Tr., pp. 20-25; Elliott Hamilton of US Wireless Consulting, Tr., p. 123; Dave Twyber of Northern Telecom, Tr., p. 126.

² See February 14, 1994 letter to William Caton, Secretary, Federal Communications Commission in PP Docket No. 93-253, wherein the Western Alliance provided statistical evidence of various western BTAs (such as Salt Lake City and Albuquerque) in which 90 percent coverage can be achieved without serving rural areas.

The Commission must take the time to exempt rural telcos from the cellular ownership restriction, so that its Congressional mandate is fulfilled. While many of the panelists expressed concern over the potential headstart which cellular carriers have in providing PCS-type services, one or two months' delay in order to consider these important issues will not pose any competitive disadvantage. Indeed, as some of the panelists pointed out, a 12 to 18 month headstart for the wireline licensee in the cellular duopoly has not in the end harmed the non-wireline carrier. See Testimony of Jerry Hausman of MIT, Tr., pp. 180-81 and Stan Besen of Charles River Associates, Tr., p. 184. The Commission has more recently given cable operators a headstart in providing advanced services, which may pose a more viable source of competition to local loop service than PCS.

2. The Commission Should License Six 20 MHz Blocks

Many panelists express the view that the currently allocated 10 MHz spectrum blocks are of questionable usefulness at best, and urge the Commission to license six 20 MHz blocks instead of the current 30-20-10 MHz mix.³ The Western Alliance agrees with these panelists.⁴ 10 MHz blocks do not afford the licensee sufficient spectrum to avoid incumbent microwave licensees at the start of a license period. Not only does this introduce substantially greater costs, but more importantly can delay the implementation of a useful service for three to four years, placing 10 MHz licensees at such a competitive disadvantage that they are unlikely to succeed. This fact alone is likely to devalue the 10 MHz blocks at auction. More importantly, rural telcos and other small businesses will probably be forced to choose between a 10 MHz block or nothing at all. The 30 MHz MTA licenses will be out of the question for all but the largest telecommunications giants. This will focus other potentially large applicants on the 20 MHz C block in each BTA, pushing rural telcos and other small entities towards the Hobson's choice of 10 MHz, or exclusion. If three to four 20 MHz blocks were available, bidding at the BTA level would be diffused among the different frequency blocks, giving rural telcos and other designated entities a more meaningful chance at participating (in accordance with Congress' wishes).⁵ The use of

³ See Testimony of Jerry Hausman, Tr., p. 135, 160.

⁴ An allocation of two 30 MHz blocks to be licensed on an MTA basis, and three 20 MHz blocks to be licensed on a BTA basis would be preferable to the current allocation, for the reasons set forth above. However, uniform 20 MHz blocks would appear preferable.

⁵ In this regard, the Commission should maintain a set-aside for designated entities. The Western Alliance disagrees with panelist Jerry Hausman, who argues against a set-aside for designated entities. Tr., p. 209. However, the set-asides should

uniform 20 MHz blocks would also better facilitate the aggregation of 40 MHz by qualified licensees.

3. The Commission Should Allow Partitioning By Rural Telcos

As discussed above, there are several BTAs in which the 90 percent coverage requirement can be achieved by providing service to the largest cities or towns within the designated area, leaving all or most rural areas unserved. And because each licensee will have exclusive rights to the entire BTA, many rural telcos will be excluded from serving their certificated areas even though the overall licensee has no interest in these communities. To prevent this anomalous result, the Commission must revise its rules on reconsideration, to allow partitioning by rural telcos. As Mr. Trampush observes, rural telcos "may be the only ones interested in providing" PCS to rural America, and partitioning would speed deployment of enhanced services to outlying areas. Tr., p. 92. The Commission should encourage voluntary partitioning, by giving incentives to PCS licensees who allow rural telcos within the BTA or MTA to build out the PCS system to their certificated areas. The rural telcos must be given a separate license, so that service to their communities is not jeopardized if the overall licensee fails to meet its construction benchmarks, or otherwise goes out of business. However, where the overall licensee does not see fit to cooperate with rural telcos, mandatory partitioning should be allowed.

4. The Power Limit Should be Raised in Rural Areas

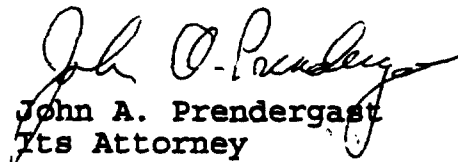
The Western Alliance agrees with Mr. Trampush and numerous commentators in this docket that the power limit for PCS transmitters must be increased in rural areas, preferably to the equivalent of 1000 watts effective radiated power (ERP). Without this power increase, rural telcos and the communities they serve will be denied meaningful participation in PCS, because the requirement for low-powered microcells will make such services cost-prohibitive in rural areas with low population densities. These areas have a per-capita demand for enhanced communications services which is as intense as the demand in urban areas. Tr., p. 42.

be two 20 MHz blocks each.

The record for the above matters is now well developed, through the efforts of the Western Alliance and other members of the rural telco industry. The Commission's panel discussion has helped to focus these issues. It is now imperative that the Commission take the brief time necessary to resolve these issues on the basis of this record, rather than blindly reaffirming its rules without change, in the name of haste.

Respectfully submitted,

THE WESTERN ALLIANCE


John A. Prendergast
Its Attorney

CERTIFICATE OF SERVICE

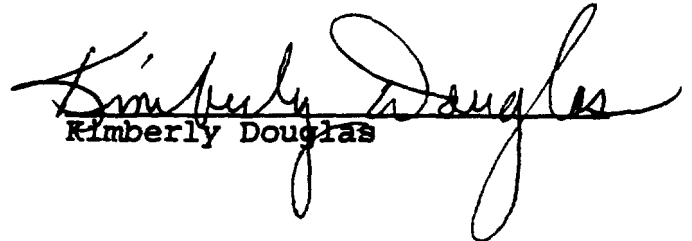
I, Kimberly Douglas, hereby certify that on this 22nd day of April, 1994, I caused to be hand-delivered a copy of the foregoing "STATEMENT OF THE WESTERN ALLIANCE" to the following:

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Kimberly Douglas